

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**ISABEL RISO and
JOSE ROCHA**

v.

**COREY LEE BOYCE AND
KLX ENERGY SERVICES, LLC
F/K/A BEA LOGISTICS SERVICES, LLC**

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No. 5:15-CV-227

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant, KLX Energy Services LLC, hereby files this Notice of Removal from the 218th Judicial District Court for Atascosa County, Texas to the United States District Court for the Western District of Texas, San Antonio, Division. In support of this Notice, Defendant states the following:

INTRODUCTION

1. On February 18, 2015, Plaintiff filed an Original Petition in the 218TH District Court of Atascosa County, Texas in a matter styled Cause No. 15-02-0120-CVA; *Isabel Riso and Jose Rocha v. Corey Lee Boyce and KLX Energy Services, LLC F/K/A Bea Logistics Services, LLC*. Defendant was served on February 23, 2015.

2. This Notice of Removal has been filed within one (1) year after receipt of the petition and citation as required by 28 U.S.C. § 1446(c)(1).

3. This lawsuit involves an automobile accident which occurred on or about March 28, 2014 when Plaintiffs were traveling west on Oaklawn in Pleasanton, Atascosa County, Texas.

Plaintiffs claim that a vehicle owned by BEA Logistics Services LLC (now known as KLX Energy Services LLC), struck Plaintiffs' vehicle causing alleged serious bodily injuries and substantial damages.

4. Plaintiffs have pled in their original petition that they seek monetary relief in an amount within the jurisdictional limits of the court, and exemplary damages in the amount over \$200,000.00, but no more than \$1,000,000.00, and/or in such an amount as may be allowed by law. Defendant, KLX Energy Services LLC f/k/a BEA Logistics Services LLC, reasonably believes that the damages sought greatly exceed \$75,000.00.

BASIS OF REMOVAL

I. DIVERSITY JURISDICTION

5. Pursuant to 28 U.S.C. § 1332, this action could have been filed in this Court, since there is complete diversity of citizenship between Plaintiff and properly named Defendant, KLX Energy Services LLC f/k/a BEA Logistics Services LLC, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. Under 28 U.S.C. 1441(b)(2), when original federal jurisdiction would be based on diversity, a defendant may remove a state court civil action if "none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought."

A. The Amount In Controversy Exceeds \$75,000

6. Plaintiffs do not plead a specific amount of damages, only an indeterminate amount, which cannot defeat federal jurisdiction; however, as stated above, Plaintiffs are seeking monetary relief in an amount over \$200,000.00. Given the nature of Plaintiffs' claims against Defendants, the alleged damages in this action appear to clearly exceed \$75,000.00, exclusive of interest and costs. The inquiry is not whether the alleged injury actually caused damages in excess of the

jurisdictional amount, but whether the fact finder could conclude that it did in fact cause such damages. Federal courts have not only the authority, but the duty to independently determine the propriety of jurisdiction. Accordingly, based on the aforementioned, it can be reasonably concluded that the unspecified total amount, sought by Plaintiffs likely exceeds the federal jurisdictional amount. *See, e.g., Villansana v. Bed Bath & Beyond, Inc.*, 502 F. Supp. 2d 528, 530 (W.D. Tex. 2007) (citing *Louque v. Allstate Ins. Co.*, 314 F.3d 776, 782 (5th Cir. 2002) (determining that when amount of damages are not specified, the court must look to what is sought by the plaintiff).

B. Complete Diversity Of Citizenship Exists Between Plaintiff And Defendant.

7. Removal of this action is based on diversity of citizenship pursuant to 28 U.S.C. § 1332. According to Plaintiffs' Petition, Plaintiffs are residents of Atascosa County. Defendant, KLX ENERGY SERVICES, LLC f/k/a BEA LOGISTICS SERVICES, LLC is a Delaware Limited Liability Company, with its principal place of business in Wellington, Florida. Defendant, COREY LEE BOYCE, is a resident of Indiana County, Pennsylvania and at this time has not been served in this case.

8. Defendant, KLX Energy Services LLC f/k/a BEA Logistics Services LLC, would show that venue is proper in this district under 28 U.S.C. § 1446(a), because this district and division embrace the place in which the removed action has been pending and because a substantial part of the events giving rise to the Plaintiffs' claim allegedly occurred in this district.

9. This action is not one described in 28 U.S.C. § 1445.

10. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed with the Clerk of the District Court for Atascosa County, Texas, and served upon Plaintiffs through their counsel of record.

11. Defendant attaches to this its Notice of Removal all document required by the Court in Attachments No. 1-6.

WHEREFORE, Defendant, KLX ENERGY SERVICES LLC f/k/a BEA LOGISTICS SERVICES LLC, hereby removes this case from the 218th Judicial District Court of Atascosa County, Texas to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

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/s/ Andres H. Gonzalez, Jr. _____
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Federal Bar No. 22196
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**ATTORNEY FOR DEFENDANT KLX
ENERGY SERVICES, LLC**

CERTIFICATE OF SERVICE

I certify that on March 24, 2015, a true and correct copy of *Defendant's Notice of Removal* was served according to the Federal Rules of Civil Procedure in the manner indicated below on the following counsel of record:

William N. Allan, IV
Allan, Nava, & Glander, PLLC
825 W. Bitters Road, Suite 104
San Antonio, Texas 78216

Via Fax No. (210) 305-4219

/s/ Andres H. Gonzalez, Jr.
ANDRES H. GONZALEZ, JR.

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ATTACHMENTS TO NOTICE OF REMOVAL

1. JS44 Civil Coversheet
2. Clerk's Docket Sheet in Cause No. 15-02-0120-CVA; *Isabel Riso and Jose Rocha v. Corey Lee Boyce and KLX Energy Services, LLC F/K/A Bea Logistics Services, LLC*; 218th Judicial District Court, Atascosa County, Texas
3. Plaintiffs' Original Petition filed February 18, 2015 in Cause No. 15-02-0120-CVA; *Isabel Riso and Jose Rocha v. Corey Lee Boyce and KLX Energy Services, LLC F/K/A Bea Logistics Services, LLC*; 218th Judicial District Court, Atascosa County, Texas
4. Defendant's Original Answer filed March 15, 2015 in Cause No. 15-02-0120-CVA; *Isabel Riso and Jose Rocha v. Corey Lee Boyce and KLX Energy Services, LLC F/K/A Bea Logistics Services, LLC*; 218th Judicial District Court, Atascosa County, Texas
5. Notice of Removal filed March 23, 2015 in Cause No. 15-02-0120-CVA; *Isabel Riso and Jose Rocha v. Corey Lee Boyce and KLX Energy Services, LLC F/K/A Bea Logistics Services, LLC*
6. Supplement to JS44 Civil Coversheet